

Memorandum

Date: October 26, 2016

To: West Linn Planning Commission

From: Darren Wyss, Associate Planner

Subject: CDC-16-03 Proposed Code Amendments

At its November 2, 2016 meeting, the Planning Commission will hold a worksession on proposed Community Development Code (CDC) amendments recommended by the West Linn Committee for Citizen Involvement (CCI). The CCI is composed of two City Councilors, Planning Commission Chair, Historic Review Board Vice-Chair, two citizens-at-large, a business representative, and a neighborhood association representative. The CCI has met 12 times since May 2016 to discuss potential CDC amendments and make recommendations to the Planning Commission. This round of recommendations, which were discussed at the October 17, 2016 joint City Council, Planning Commission, and CCI worksession, are now ready for the legislative process. The proposal was sent to Commissioners last week in the form of draft Ordinance 1655 (CDC Chapters 35, 60, 98, and 99).

Although there are amendments proposed to four CDC Chapters, they cover three topics:

1. Temporary Uses (CDC Chapters 35 and 99)

The proposal clarifies the duration of an approved temporary use can be up to one-year (CDC Chapter 35). The proposal also intends to clarify the approval authority for temporary uses (CDC Chapter 99). It removes City Council approval authority and makes it an appeal body only for temporary uses. It addresses the Planning Director's authority versus the Planning Commission's authority as follows:

Planning Director Authority

CDC 99.060.A(1)(a) – A temporary use or structure application for a period of up to one year (Chapter 35 CDC), not including uses allowed through another land use approval process.

Planning Commission Authority

CDC 99.060.B(2)(a) – A temporary use or structure application (Chapter 35 CDC) **for a period of one year, not** including uses allowed through another land use approval process.

It is unclear from these two code sections whether the intention is to separate the authority by the duration (up to one year versus one year) of the temporary use permit or by whether the temporary use is part of another land use approval process. This is an important clarification that should be discussed by the Planning Commission at the worksession. Staff will develop alternative language to clarify both scenarios and bring to the worksession.

2. Conditional Use (CDC Chapter 60)

The proposal changes one of the approval standards (CDC 60.070.A(2)) for a conditional use permit to “provide an overall benefit” from “is consistent with the overall needs” of the community.

During the October 17th joint worksession, there was discussion about potentially needing to define “community” to ensure it means West Linn and the City Attorney also recommended defining “overall benefit” as neither are included in CDC Chapter 2: Definitions. In the absence of a definition in Chapter 2, the CDC directs the user to Webster’s Third New International Dictionary of the English Language, Unabridged (CDC 2.010.D). The definition found in Webster’s for “community” contains numerous entries, including the following examples:

“the people living in a particular place or region and usually linked by common interest”
“a group of people marked by a common characteristic but living within a larger society that does not share that characteristic”
“any group sharing interests or pursuits; a group linked by a common policy”
“a body of persons or nations united by historical consciousness or by common social, economic, and political interests”

The definition for “overall” includes the following examples:

“as a whole”
“taking all units into account”
“of or relating to something as a whole: viewed as a whole”

The definition for “benefit” includes the following examples:

“something that guards, aids , or promotes well-being”
“useful aid”

Based on the established definitions above, staff recommends not creating new definitions to adopt into the CDC, but to continue relying on Webster’s entries.

3. Citizen Engagement in Legislative Changes

The proposal adds a new section to Chapter 98 that essentially codifies what is a common administrative operating procedure when the City undertakes a legislative process. It should be also be noted that the draft Ordinance 1655 will need to be edited

to ensure sequencing consistency with the current CDC and to create proper lettering of the subsections. At the October 17th joint worksession the City Attorney suggested changing “legal counsel” with “City Attorney” in proposed subsection 6 of “Conduct of working group meetings”. Staff will make this change in the updated Ordinance brought forward to the public hearing.

The legislative process to adopt Ordinance 1655 is scheduled with a public hearing before the Planning Commission on November 16, 2016 and a public hearing before City Council on December 12, 2016.

Please feel free to contact me at dwyss@westlinnoregon.gov or 503-722-5512 with any questions regarding the materials or process.